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 OKRA, INC., a California corporation
 dba Café Ophelia and HSIU YUN HUANG

UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF CALIFORNIA

MING-GUI LI, CHI-POE HSUEH, KING
 KENUNG LAM, GUAN YU LI, YEN
 SHIUM HUANG,

Plaintiffs,

vs.

OKRA, INC. DBA CAFÉ OPHELIA, HSIU
 YUN HUANG and Does 1-10,

Defendants.

) Case No.: C07-05731 PVT

)
) **DEFENDANTS' OKRA, INC. DBA CAFÉ**
) **OPHELIA AND HSIU YUN HUANG ANSWER**
) **TO PLAINTIFFS' COMPLAINT**

ANSWER TO COMPLAINT

Defendants OKRA, INC. dba Café Ophelia and HSIU YUN HUANG hereby assert the following answers and affirmative defenses, each individually and on their own behalf, to the Complaint filed by Plaintiffs herein.

NATURE OF CLAIM

1
2 1. Answer Paragraph 1 of the Complaint, Defendants admit that Plaintiffs are former
3 employees hand have filed a complaint for damages. Except as admitted, Defendants deny each and
4 every remaining allegation contained in said paragraph.

PARTIES

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6
7 2. Answering Paragraph 2 of the Complaint, Defendants lack sufficient knowledge or
8 information to form a belief as to the truth of the allegations and, on that basis, deny each and every
9 material allegation contained therein.

10 3. Answering Paragraph 3 of the Complaint, Defendants lack sufficient knowledge or
11 information to form a belief as to the truth of the allegations and, on that basis, deny each and every
12 material allegation contained therein.

13 4. Answering Paragraph 4 of the Complaint, Defendants lack sufficient knowledge or
14 information to form a belief as to the truth of the allegations and, on that basis, deny each and every
15 material allegation contained therein.

16 5. Answering Paragraph 5 of the Complaint, Defendants lack sufficient knowledge or
17 information to form a belief as to the truth of the allegations and, on that basis, deny each and every
18 material allegation contained therein.

19 6. Answering Paragraph 6 of the Complaint, Defendants lack sufficient knowledge or
20 information to form a belief as to the truth of the allegations and, on that basis, deny each and every
21 material allegation contained therein.

22 7. Answering Paragraph 7 of the Complaint, Defendants admit that Defendant Okra, Inc.
23 dba Café Ophelia was a California corporation doing business in Milpitas, California.

24 8. Answering Paragraph 8 of the Complaint, Defendants admit that Defendant HSIU
25 YUN HUANG was an officer of Okra, Inc. dba Café Ophelia.

GENERAL ALLEGATIONS

9. Answering Paragraph 9 of the Complaint, Defendants admit that Plaintiffs were employees of OKRA, INC.

10. Answering Paragraph 10 of the Complaint, Defendants lack sufficient knowledge or information to form a belief as to the truth of the allegations and, on that basis, deny each and every material allegation contained therein.

11. Answering Paragraph 11 of the Complaint, Defendants deny each and every allegation made in said paragraph.

12. Answering Paragraph 12 of the Complaint, Defendants admit the allegations made in said paragraph.

13. Answering Paragraph 13 of the Complaint, Defendants admit the allegations made in said paragraph.

14. Answering Paragraph 14 of the Complaint, Defendants lack sufficient knowledge or information to form a belief as to the truth of the allegation that “Plaintiffs maintain any professional license with the state or practice any recognized profession” and, on that basis, deny said allegation. Defendants admit the remaining allegations of said paragraph.

15. Answering Paragraph 15 of the Complaint, Defendants deny each and every allegation made in said paragraph.

COUNT ONE: VIOLATION OF CA LABOR CODE SECTION §510

FAILURE TO PROPERLY PAY OVERTIME WAGES

16. Answering Paragraph 16 of the Complaint, Defendant re-allege their responses provided to paragraphs 1 through 15 of the Complaint.

1 17. Answering Paragraph 17 of the Complaint, this paragraph contains allegations of law
2 and legal conclusions which an answer is not required pursuant to the Federal Rules of Civil
3 Procedure. Should any answer be required, Defendants deny each and every allegation made in said
4 paragraph.

5 18. Answering Paragraph 18 of the Complaint, Defendants deny each and every allegation
6 made in said paragraph.

7 19. Answering Paragraph 19 of the Complaint, this paragraph contains allegations of law
8 and legal conclusions which an answer is not required pursuant to the Federal Rules of Civil
9 Procedure. Should any answer be required, Defendants deny each and every allegation made in said
10 paragraph.

11 20. Answering Paragraph 20 of the Complaint, Defendants deny each and every allegation
12 made in said paragraph.

13 21. Answering Paragraph 21 of the Complaint, Defendants deny each and every allegation
14 made in said paragraph.

15 22. Answering Paragraph 22 of the Complaint, this paragraph contains allegations of law
16 and legal conclusions which an answer is not required pursuant to the Federal Rules of Civil
17 Procedure. Should any answer be required, Defendants deny each and every allegation made in said
18 paragraph.

19 23. Answering Paragraph 23 of the Complaint, this paragraph contains allegations of law
20 and legal conclusions which an answer is not required pursuant to the Federal Rules of Civil
21 Procedure. Should any answer be required, Defendants deny each and every allegation made in said
22 paragraph.

23
24 **COUNT TWO: VIOLATION OF THE FIAR LABOR STANDARDS ACT**

25 **FAIURE TO PROPERLY PAY OVERTIME WAGES**

1 24. Answering Paragraph 24 of the Complaint, Defendant re-allege their responses
2 provided to paragraphs 1 through 23 of the Complaint.

3 25. Answering Paragraph 25 of the Complaint, this paragraph contains allegations of law
4 and legal conclusions which an answer is not required pursuant to the Federal Rules of Civil
5 Procedure. Should any answer be required, Defendants deny each and every allegation made in said
6 paragraph.

7 26. Answering Paragraph 26 of the Complaint, this paragraph contains allegations of law
8 and legal conclusions which an answer is not required pursuant to the Federal Rules of Civil
9 Procedure. Should any answer be required, Defendants deny each and every allegation made in said
10 paragraph.

11 27. Answering Paragraph 27 of the Complaint, Defendants deny each and every allegation
12 made in said paragraph.

13 28. Answering Paragraph 28 of the Complaint, this paragraph contains allegations of law
14 and legal conclusions which an answer is not required pursuant to the Federal Rules of Civil
15 Procedure. Should any answer be required, Defendants deny each and every allegation made in said
16 paragraph.

17 29. Answering Paragraph 29 of the Complaint, Defendants deny each and every allegation
18 made in said paragraph.

19 30. Answering Paragraph 30 of the Complaint, Defendants deny each and every allegation
20 made in said paragraph.

21 31. Answering Paragraph 31 of the Complaint, Defendants deny each and every allegation
22 made in said paragraph.

23 32. Answering Paragraph 32 of the Complaint, this paragraph contains allegations of law
24 and legal conclusions which an answer is not required pursuant to the Federal Rules of Civil
25

1 Procedure. Should any answer be required, Defendants deny each and every allegation made in said
2 paragraph.

3
4 **COUNT THREE: VIOLATION OF CA LABOR CODE SECTION 201**
5 **FAILURE TO PAY WAGES DUE AND “WAITING TIME” PENALTIES**

6 33. Answering Paragraph 33 of the Complaint, Defendant re-allege their responses
7 provided to paragraphs 1 through 32 of the Complaint.

8 34. Answering Paragraph 34 of the Complaint, Defendants deny each and every allegation
9 made in said paragraph.

10 35. Answering Paragraph 35 of the Complaint, this paragraph contains allegations of law
11 and legal conclusions which an answer is not required pursuant to the Federal Rules of Civil
12 Procedure. Should any answer be required, Defendants deny each and every allegation made in said
13 paragraph.

14 36. Answering Paragraph 36 of the Complaint, Defendants deny each and every allegation
15 made in said paragraph.

16 37. Answering Paragraph 37 of the Complaint, this paragraph contains allegations of law
17 and legal conclusions which an answer is not required pursuant to the Federal Rules of Civil
18 Procedure. Should any answer be required, Defendants deny each and every allegation made in said
19 paragraph.

20 38. Answering Paragraph 38 of the Complaint, this paragraph contains allegations of law
21 and legal conclusions which an answer is not required pursuant to the Federal Rules of Civil
22 Procedure. Should any answer be required, Defendants deny each and every allegation made in said
23 paragraph.

COUNT FOUR: VIOLATION OF CA BUSINESS AND PROFESSIONS CODE

SECTION 17200 UNFAIR BUSINESS PRACTICES

39. Answering Paragraph 39 of the Complaint, Defendant re-allege their responses provided to paragraphs 1 through 38 of the Complaint.

40. Answering Paragraph 40 of the Complaint, this paragraph contains allegations of law and legal conclusions which an answer is not required pursuant to the Federal Rules of Civil Procedure. Should any answer be required, Defendants deny each and every allegation made in said paragraph.

41. Answering Paragraph 41 of the Complaint, this paragraph contains allegations of law and legal conclusions which an answer is not required pursuant to the Federal Rules of Civil Procedure. Should any answer be required, Defendants deny each and every allegation made in said paragraph.

42. Answering Paragraph 42 of the Complaint, Defendants deny each and every allegation made in said paragraph.

43. Answering Paragraph 43 of the Complaint, this paragraph contains allegations of law and legal conclusions which an answer is not required pursuant to the Federal Rules of Civil Procedure. Should any answer be required, Defendants deny each and every allegation made in said paragraph.

44. Answering Paragraph 44 of the Complaint, this paragraph contains allegations of law and legal conclusions which an answer is not required pursuant to the Federal Rules of Civil Procedure. Should any answer be required, Defendants deny each and every allegation made in said paragraph.

45. Answering Paragraph 44 of the Complaint, this paragraph contains allegations of law and legal conclusions which an answer is not required pursuant to the Federal Rules of Civil

1 Procedure. Should any answer be required, Defendants deny each and every allegation made in said
2 paragraph.

3 46. Answering Paragraph 44 of the Complaint, this paragraph contains allegations of law
4 and legal conclusions which an answer is not required pursuant to the Federal Rules of Civil
5 Procedure. Should any answer be required, Defendants deny each and every allegation made in said
6 paragraph.

7
8 **COUNT FIVE: VIOLATION OF CALIFORNIA LABOR CODE SECTION 226**

9 **INADEQUATE PAY STATEMENTS**

10 47. Answering Paragraph 47 of the Complaint, Defendant re-allege their responses
11 provided to paragraphs 1 through 46 of the Complaint.

12 48. Answering Paragraph 48 of the Complaint, this paragraph contains allegations of law
13 and legal conclusions which an answer is not required pursuant to the Federal Rules of Civil
14 Procedure. Should any answer be required, Defendants deny each and every allegation made in said
15 paragraph.

16 49. Answering Paragraph 49 of the Complaint, this paragraph contains allegations of law
17 and legal conclusions which an answer is not required pursuant to the Federal Rules of Civil
18 Procedure. Should any answer be required, Defendants deny each and every allegation made in said
19 paragraph.

20 50. Answering Paragraph 50 of the Complaint, this paragraph contains allegations of law
21 and legal conclusions which an answer is not required pursuant to the Federal Rules of Civil
22 Procedure. Should any answer be required, Defendants deny each and every allegation made in said
23 paragraph.

24 51. Answering Paragraph 51 of the Complaint, this paragraph contains allegations of law
25 and legal conclusions which an answer is not required pursuant to the Federal Rules of Civil

1 Procedure. Should any answer be required, Defendants deny each and every allegation made in said
2 paragraph.

3 52. Answering Paragraph 52 of the Complaint, Defendants deny each and every allegation
4 made in said paragraph.

5 53. Answering Paragraph 53 of the Complaint, Defendants deny each and every allegation
6 made in said paragraph.

7 54. Answering Paragraph 54 of the Complaint, this paragraph contains allegations of law
8 and legal conclusions which an answer is not required pursuant to the Federal Rules of Civil
9 Procedure. Should any answer be required, Defendants deny each and every allegation made in said
10 paragraph.

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12 **COUNT SIX: VIOLATION OF CALIFORNIA LABOR CODE SECTION 226.7**

13 **FAILURE TO PROVIDE MEAL AND REST PERIODS**

14 55. Answering Paragraph 55 of the Complaint, Defendant re-allege their responses
15 provided to paragraphs 1 through 54 of the Complaint.

16 56. Answering Paragraph 56 of the Complaint, this paragraph contains allegations of law
17 and legal conclusions which an answer is not required pursuant to the Federal Rules of Civil
18 Procedure. Should any answer be required, Defendants deny each and every allegation made in said
19 paragraph.

20 57. Answering Paragraph 57 of the Complaint, Defendants deny each and every allegation
21 made in said paragraph.

22 58. Answering Paragraph 58 of the Complaint, this paragraph contains allegations of law
23 and legal conclusions which an answer is not required pursuant to the Federal Rules of Civil
24 Procedure. Should any answer be required, Defendants deny each and every allegation made in said
25 paragraph.

1 59. Answering Paragraph 59 of the Complaint, Defendants deny each and every allegation
2 made in said paragraph.

3
4 **AFFIRMATIVE DEFENSES**

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6 1. AS AND FOR A FIRST SEPARATE AND AFFIRMATIVE DEFENSE, Defendants
7 allegess that Plaintiffs' Complaint ("Complaint"), and each and every cause of action therein, fails to
8 state facts sufficient to constitute a cause of action against this Defendant.

9 2. AS AND FOR AN SECOND SEPARATE AND AFFIRMATIVE DEFENSE,
10 Defendant allege that Plaintiffs' claim is barred by the doctrine of laches.

11 3. AS AND FOR A THIRD SEPARATE AND AFFIRMATIVE DEFENSE, Defendants
12 allege that Plaintiffs consented and approved all of the acts and omissions alleged in the Complaint
13 and is, therefore, barred from pursuing this action.

14 4. AS AND FOR A FOURTH SEPARATE AND AFFIRMATIVE DEFENSE,
15 Defendants allege that all the acts and omissions alleged in the Complaint were justified by the
16 information and facts provided to Defendants at the time that the acts and omissions were alleged to
17 have occurred.

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19 5. AS AND FOR A FIFTH SEPARATE AND AFFIRMATIVE DEFENSE, Defendants
20 allege that Plaintiffs claims set forth in the Complaint are barred by Plaintiffs ratifications and
21 acquiescence to said alleged acts and omissions.

22 6. AS AND FOR A SIXTH SEPARATE AND AFFIRMATIVE DEFENSE, Defendants
23 allege that by Plaintiffs words, conduct, actions and agreements, Plaintiffs waived their claims set
24 forth in the Complaint.

1 7. AS AND FOR A SEVENTH SEPARATE AND AFFIRMATIVE DEFENSES,
2 Defendants allege that they acted in good faith and had reasonable grounds to believe that their
3 conduct did not violate the California Labor Code of the Fair Labor Standards Act, thereby precluding
4 an award of liquidated damages.

5 8. AS AND FOR A EIGHTH SEPARATE AND AFFIRMATIVE DEFENSES,
6 Defendants allege that Defendants acts were not unlawful in that Defendants have complied with all
7 laws alleged in the Complaint to have been violated.

8 9. AS AND FOR A NINTH SEPARATE AND AFFIRMATIVE DEFENSE, Defendants
9 allege that Plaintiffs' claims are barred by the doctrine of estoppel.

10 10. AS AND FOR A TENTH SEPARATE AND AFFIRMATIVE DEFENSE, Defendants
11 allege that assumed the risk of any loss or injury caused by any acts alleged in the Complaint.

12 11. AS AND FOR A ELEVENTH SEPARATE AND AFFIRMATIVE DEFENSE,
13 Defendants allege that Plaintiffs' claims are barred by the doctrine of unclean hands.

14 12. AS AND FOR A TWELFTH SEPARATE AND AFFIRMATIVE DEFENSE,
15 Defendants allege that Plaintiffs' claims are barred by the applicable statute of limitations.

16 13. AS AND FOR A THIRTEENTH SEPARATE AND AFFIRMATIVE DEFENSE,
17 Defendants allege that Plaintiffs' claims are barred in whole or in part by the doctrine of after-
18 acquired evidence.

19 14. AS AND FOR A FOURTEENTH SEPARATE AND AFFIRMATIVE DEFENSE,
20 Defendants allege that at all times mentioned, Defendants acted in good faith, with reasonable and
21 probable cause and reliance on the good faith of the Plaintiffs. Defendants further allege that at all
22 times mentioned, Plaintiffs did not act in good faith..
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1 15. AS AND FOR A FIFTHTEENTH SEPARATE AND AFFIRMATIVE DEFENSE,
2 Defendants allege that Plaintiffs have suffered no damages in connection with the claims asserted in
3 the Complaint.
4

5 WHEREFORE, this Defendants pray for judgment as follows:

- 6 1. That Plaintiffs take nothing by reason of his Complaint;
7 2. For Defendants' costs of suit incurred herein;
8 3. For reasonable attorney's incurred by Defendant in these action; and
9 3. For such other and further relief that the Court may deem just and proper.
10

11 Dated: February 22, 2008

12 U.S.-China Law Group

13 /s/
14 _____
15 JEFFREY A. CHEN, ESQ.
16 Attorney for Defendants
17 OKRA, INC. and
18 HSIU YUN HUANG
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PROOF OF SERVICE

I declare that:

I am employed in the City and County of San Francisco, State of California. I am over the age of eighteen years and not a party to the within cause; my business address is 275 Fifth Street, 4th Floor, San Francisco, California 94102.

On February 22, 2008, I served the attached **ANSWER TO COMPLAINT** by placing true copies thereof in sealed envelopes addressed as follows:

Adam Wang, Esq.
12 South First Street, Suite 613
San Jose, CA 95113

 X (By Mail) I placed each such sealed envelope, with postage thereon fully prepaid for first-class mail, for collection and mailing at San Francisco, California, following ordinary business practices. I am readily familiar with the practice of the Law Offices of Jeffrey A. Chen for processing of correspondence, said practice being that in the ordinary course of business, correspondence is deposited in the United States Postal Service the same day as it is placed for processing.

 (By Overnight Mail) I caused such envelope deposited with Federal Express for next business day delivery to the addressee(s) noted above.

 (By Personal Service) I caused such envelope to be hand-delivered by a messenger to the addressee(s) noted above, or be left with the receptionist or with a person having charge of the attorney's office.

 (By Facsimile) I caused the said document to be transmitted by facsimile machine to the number indicated after the address(es) noted above.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed February 22, 2008, at San Jose, California.

/s/
Jeffrey A. Chen